

Authorized by the U.S. District Court for the District of Massachusetts

If you made a Percentage Co-Payment for Certain Drugs, from January 1, 1991 to March 1, 2008, you may be able to get at least \$35 back.

Hundreds of drugs for cancer, HIV, asthma, allergies, infections, inflammation, pain, gastrointestinal, lung and blood issues, and many other conditions are included.

There is a proposed class action settlement with several drug manufacturers concerning approximately 200 drugs. These drugs are used for the treatment of many medical conditions and they are often, but not always, injected in a doctor's office or clinic.

Can I Get Money Back?

- You can get a refund if you paid a *percentage co-payment* for any of the covered drugs from January 1, 1991 through March 1, 2008. A percentage co-payment varies with the cost of the drug. You cannot get a refund if you paid a flat co-payment.

How Much Can I Get Back?

Approximately \$21.8 million will be paid to consumers who file valid claims.

- **You can get up to \$35** simply by certifying you paid percentage co-payments, or
- If you can estimate what you paid and show that you made percentage co-payments through receipts or bills, you can receive more money. **For some of the drugs, you can get three times the percentage co-payment.**

Your legal rights are affected even if you do not act.

Read this Notice carefully.

1. What Is This Notice About?

- You received this Notice because you requested it after seeing information about this case in a publication or elsewhere, or because your name appeared in the records of a health insurer as a potential class member.
- There is a Proposed Settlement of a class action lawsuit involving several drug manufacturers and approximately 200 drugs. (Defendants are listed in Question 3.)
- This lawsuit is not about whether these drugs are safe or effective. This lawsuit is about the amount that you were charged for the drugs. The class action claims that customers paid too much for the drugs.
- The drug manufacturers have agreed to pay \$125 million to settle the class action. Approximately \$21.8 million will be available to pay consumer claims.
- If you made a percentage co-payment for the covered drugs, you can get money back. A percentage co-payment varies with the cost of the drug. A flat co-payment never varies; it's always the same no matter how much the drug costs.
- You can obtain a complete copy of the Settlement Agreement by visiting www.AWPTrack2Settlement.com.

2. What Is The Lawsuit About?

The Average Wholesale Price (“AWP”) is used to set reimbursement amounts that are paid by a) Medicare and its beneficiaries, b) private health insurers, and c) consumers making percentage co-payments under private health insurance plans. The lawsuit claims that Defendants reported false and inflated AWP's for the drugs covered in this Proposed Settlement. The Defendants deny any wrongdoing, and the Proposed Settlement is not an admission of wrongdoing or an indication that any law was violated.

The name of the lawsuit is *In re: Pharmaceutical Industry Average Wholesale Price Litigation*, Docket No. 01-CV-12257-PBS, MDL No. 1456.

3. Who Are The Defendants?

The Defendants in the case are Abbott Laboratories, Amgen Inc., Aventis Pharmaceuticals Inc., Hoechst Marion Roussel, Baxter Healthcare Corp., Baxter International Inc., Bayer Corporation, Dey, Inc., Fujisawa Healthcare, Inc., Fujisawa USA, Inc., Immunex Corporation, Pharmacia Corporation, Pharmacia & Upjohn LLC (f/k/a Pharmacia & Upjohn, Inc.), Sicor, Inc., Gensia, Inc., Gensia Sicor Pharmaceuticals, Inc., Watson Pharmaceuticals, Inc., and ZLB Behring, L.L.C.

4. How Do I Know If I Am Included In The Proposed Settlement?

You are part of the Proposed Settlement if you made, or are obligated to make, a percentage co-payment:

- Through a private health insurance plan for covered drugs listed in Attachment A from January 1, 1991 through March 1, 2008.
- Under Medicare Part B for any of the covered drugs listed in Attachment A from January 1, 1991 through January 1, 2005.

A spouse of a deceased class member who made such a co-payment or a legal representative of a deceased class member's estate may file a claim.

Excluded from the Proposed Settlement are (1) the Released Companies (Defendants and certain related entities as defined in the Settlement Agreement); (2) all hospitals, clinics, physicians, or physician practice groups, or other health care provider or group of providers, that purchased drugs manufactured, marketed, sold, or distributed by a Released Company, and that (a) administered, dispensed, or prescribed such drugs to a consumer and (b) billed a consumer, TPP, or ISHP for such drugs. Additionally excluded from the Proposed Settlement are all federal, state, and local government entities in the United States, except any such governmental agencies or programs that made or incurred an obligation to make a reimbursement for a Class Drug as part of a health benefit plan for their employees, but only with respect to such payment; and certain other independent settling health plans

You are not a member of a Class if you made flat co-payments, if insurance paid all of your co-payment, or if you were never obligated to make a co-payment at all.

IMPORTANT: *This is not a bill or a collection notice. The Court is not suggesting, requesting or requiring that you pay your doctor or pharmacist now or that you are obligated to do so.*

5. What Do I Need To Do To Get A Payment?

You received this Notice because you requested it after seeing information about this case in a publication or elsewhere, or because a health insurer's records indicate you may have made percentage co-payments for some of the drugs at issue in this case. You should review the attached list of covered drugs. If you paid a percentage co-payment for any of them between January 1, 1991 and March 1, 2008, you have two options to get a payment:

- 1) You may sign the attached claim form under penalty of perjury, stating that you paid a percentage co-payment for at least one of the covered drugs during the Class Period. You will receive a payment of up to \$35;

OR

- 2) You may complete the attached claim form and provide documentation of your percentage co-payments for the covered drugs during the Class Period, and receive a partial refund of the total amount you spent. Please see Question 6 for more details on how the amount will be determined.

Note: If you made percentage co-payments under Medicare Part B between January 1, 1991 and March 1, 2005, you need another claim form. Call 1-877-465-8136 for a form to fill out for a refund of these percentage co-payments.

6. How Are Payments Determined?

If you opt to submit records of your co-payments instead of opting for a refund of up to \$35, the Claims Administrator will calculate your claim amount. It will be based on the information you provide about your total out-of-pocket co-payment obligations under private insurance for all the covered drugs during the Class Period.

Your reimbursement will be calculated by adding three amounts:

- Co-payment obligations for drugs identified as Class A Drugs from December 1, 1997 through December 31, 2003 multiplied by a factor of three (3x);
- Co-payment obligations for Class A Drugs outside of this time period (with no multiplication factor); and
- Co-payment obligations for the other covered drugs called Class B Drugs during the entire Class Period (with no multiplication factor).

The sum of these three figures will be your “Total Recognized Claim”. If there is enough money based on the number of claims received, your payment will be 100% of your Total Recognized Claim. If there is not enough money to pay all consumers 100% of their Total Recognized Claims, each consumer’s claim will be reduced proportionately.

7. What If I Do Not Want to Be Included In The Proposed Settlement?

If you do not want to be in the Proposed Settlement and you want to keep the right to sue Defendants about the same claims on your own, you must take steps to get out of the lawsuit. This is called excluding yourself.

By excluding yourself, you keep the right to file your own lawsuit or join another lawsuit against Defendants about the claims in this lawsuit.

If you exclude yourself from the Settlement Classes, you will not be able to file a claim for money and you will not be in the Proposed Settlement.

To exclude yourself from the Class, you must send a letter signed by you that includes all of the following:

- Your name, address, taxpayer identification number, telephone number and fax number (if any);
- The name and number of the lawsuit: *In re: Pharmaceutical Industry Average Wholesale Price Litigation*, Docket No. 01-CV-12257-PBS, MDL No. 1456;
- If you have hired your own lawyer, the name, address, and telephone number of your lawyer; and
- A statement that you want to be excluded from the Settlement Classes.

Your exclusion letter must be mailed first class, **postmarked by March 16, 2009**, to: AWP Track 2 Settlement Administrator, P.O. Box 951, Minneapolis, MN 55440-0951.

Please remember that you cannot exclude yourself by calling or by sending an email.

8. May I Object To, Or Comment On, The Proposed Settlement?

Yes. If you have comments about, or disagree with, any aspect of the Proposed Settlement, you may express your views to the Court. You must do this in writing. Your written response should include:

- Your name, address, telephone number, a brief explanation of your reasons for objection, and
- The case number (Civil Action Number: 01-CV-12257-PBS, MDL No. 1456).

The document **must** be signed to ensure the Court's review. The response must be filed with the Court at the following address on or before **March 16, 2009**: Clerk of Court, John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Suite 2300, Boston, Massachusetts 02210 and served on Counsel for the Parties on or before **March 16, 2009** at the following addresses:

Counsel for the Class

Steve W. Berman
Hagens Berman
Sobol Shapiro LLP
1301 Fifth Avenue
Suite 2900
Seattle, WA 98101

Counsel for the Track 2 Defendants

Steven F. Barley	James P. Muehlberger
Hogan & Hartson, LLP	Shook, Hardy & Bacon, LLP
111 S. Calvert Street	2555 Grand Boulevard
Suite 1600	Kansas City, MO 64108
Baltimore, MD 21202	

In addition, your document must clearly state that it relates to the "Track 2 Settlement." If you file or present an objection, you will be subject to the jurisdiction of the Court.

9. Do I Have A Lawyer Representing My Interests In This Case?

Yes. The Court has appointed the following law firms to represent you and other Settlement Class Members:

Hagens Berman Sobol Shapiro LLP
www.hbsslaw.com
1301 Fifth Avenue, Suite 2900
Seattle, WA 98101
Wexler Toriseva Wallace LLP
www.wtwlaw.us
55 W. Monroe, Suite 3300
Chicago, IL 60603

Spector Roseman & Kodroff, PC
www.srk-law.com
1818 Market Street, Suite 2500
Philadelphia, PA 19103
Edelson & Associates LLC
45 West Court Street
Doylestown, PA 18901

These lawyers are called Class Counsel. You won't be charged personally for these lawyers. Class Counsel will ask the Court to award them a fee of up to 33 1/3% plus interest and litigation expenses. You don't need to hire your own lawyer, but if you want your own lawyer to speak for you or appear in Court, you must file a Notice of Appearance (see Question 10). Hiring a lawyer to appear for you in the lawsuit will be at your own expense.

10. When And Where Will The Court Decide On Whether To Grant Final Approval Of The Proposed Settlement?

The Court will hold a Hearing on April 27, 2009 at 2:00 p.m. to consider whether it is fair, reasonable and adequate. At the Hearing, the Court will also consider whether to approve the Proposed Settlement; the request for attorneys' fees and expenses; and any comments or objections. You are not required to attend, but may do so at your own expense.

If you want your own lawyer instead of Class Counsel to speak at the Final Approval Hearing, you must give the Court a paper that is called a "Notice of Appearance." The Notice of Appearance must include:

- Your name, address, telephone number, signature;
- The name, and number of the lawsuit (Civil Action Number: 01-CV-12257-PBS, MDL No. 1456);
- State that you wish to enter an appearance at the Final Approval Hearing; and
- Any documentation in support of such opposition.

Your Notice of Appearance **must** be filed with the Court on or before **March 16, 2009** and served on Counsel by **March 16, 2009**. You cannot speak at the Hearing if you previously asked to be excluded from the Proposed Settlement Class and are not submitting a Claim Form now. The Notice of Appearance must be filed with the Court and served on Counsel at the addresses set forth above in response to Question 8.

11. Where Do I Obtain More Information?

More details and all other legal documents that have been filed with the Court in this lawsuit are available. They can be viewed and copied at any time during regular office hours at the Office of the Clerk of Court, John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Suite 2300, Boston, Massachusetts 02210.

In addition, if you have any questions about the lawsuit or this Notice, you may:

- Visit the AWP Track 2 Settlement website at www.AWPTrack2Settlement.com
- Call toll-free 1-877-465-8136
- Write to: AWP Track 2 Settlement Administrator
P.O. Box 951
Minneapolis, MN 55440-0951

DATED: January 7, 2009

BY ORDER OF THE COURT

CLASS MEMBERSHIP DRUG LIST**CLASS A DRUGS**

Anzemet (injection & tablets)	Ferrlecit	Neulasta
Aranesp	InFed	Neupogen
Epogen		

CLASS B DRUGS

A	Ativan	Cipro / Ciprofloxacin hydrochloride
AccuNeb	Azmacort	Cisplatin
Acetylcysteine	B	Claforan
Acyclovir sodium	Bebulin	Cleocin T / Clindamycin phosphate
Adenosine	Bioclate	Copper trace / Cupric chloride
Adriamycin PFS/RFS	Bleomycin sulfate	Cromolyn sodium
Adrucil	Brevibloc	Cytosar-U / Cytarabine
Aggrastat	Buminate	D
Albuterol sulfate	Bupivacaine	Depo provera / Medroxyprogesterone acetate
Alcohol injection	C	Depo-testosterone / Testosterone cypionate
A-methapred	Calcijex	Dexamethasone acetate / Dexamethasone sodium / Dexamethasone sodium phosphate
Amikacin sulfate	Calcimar	Dextrose / Dextrose sodium chloride / Ringers lactated with dextrose
Aminocaproic acid	Camptosar / Irinotecan hydrochloride	Diazepam
Aminosyn / Aminosyn II / Amino acid	Carbocaine / Mepivacaine	Dicarbazine (dtic – dome)
Amphocin / Amphotericin B	Cefizox	Diltiazem hydrochloride
Aristocort / Aristospan	Chromium tr meta / Chromic chloride	Dopamine hydrochloride
Aromasin	Cimetidine hydrochloride	Doxorubicin / Doxorubicin hydrochloride

CLASS B DRUGS (continued)		
DTIC Dome	Humate-P	M
E	Hydromorphone	Magnese chloride
Eligard	I	Magnesium sulfate
Ellence / Epirubicin HCL	Idamycin / Idarubicin hydrochloride	Mannitol
Enalaprilat	Imipramine HCL	Marcaine
Enbrel	Intal	Medrol / Methylprednisolone
Epinephrine	Ipratropium bromide	Metaproterenol sulfate
Erythromycin / Erythromycin base	Iveegam	Methotrexate sodium
Estradiol	K	Metoclopramide
Etoposide	Ketorolac / Ketorolac tromethamine	Midazolam hydrochloride
F	Kineret	Mithracin
Famotidine	Koate – HP	Monoclate / Monoclate-P
Fentanyl citrate	Kogenate	Mononine
Fluorouracil	L	Morphine sulfate
Fluphenazine HCL	Labetalol	N
Furosemide	Lasix	Nadolol
G	Leucovorin calcium	Nalbuphine
Gamimune N / Gammagard / Gammagard S/D / Gammar / Gammar P.I.V.	Leukine	Nebupent
Gentamicin sulfate	Levofloxacin	Neosar / Cyclophosphamide
Gentran / Gentran NACL	Lidocaine hydrochloride	Neostigmine methylsulfate
Glycopyrrolate	Liposyn II / Fat emulsion	Novacaine / Procaine
H	Lorazepam	Novantrone
Helixate / Helixate FS	Lovenox	O
Heparin / Heparin lock flush / Heparin sodium	Lyphocin	Osmitrol

CLASS B DRUGS (continued)

P	S	V
Pancuronium bromide	Sodium acetate	Vancocin / Vancocin HCL / Vancomycin / Vancomycin HCL
Pentam / Pentamidine isethionate	Sodium chloride	Verapamil HCL
Perphenazine	Solu-cortef / Hydrocortisone sodium succinate	Vinblastine sulfate
Phenylephrine	Solu-medrol	Vincasar / Vincristine / Vinscristine sulfate
Potassium acetate / Potassium chloride	Succinylcholine chloride	W
Prograf	T	Water for injection bacteriostatic
Promethazine	Taxotere	Z
Propranolol HCL	Thioplex / Thiotepa	Zemplar
Propofol	Tobramycin sulfate / Tobramycin / sodium chloride	Zinc chloride
R	Toposar	
Ranitidine HCL	Travasol / Travasol with dextrose	
Recombinant	Trelstar / Triptorelin pamoate	

AWP TRACK 2 SETTLEMENT ADMINISTRATOR
PO BOX 720
MINNEAPOLIS MN 55440-0720

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U.S. POSTAGE

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IMPORTANT COURT DOCUMENTS